

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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MAY 7 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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|------------------------------------|---|----------------------|
| In the Matter of |) | CC Docket No. 95-116 |
| Long-Term Telephone Number |) | |
| Portability Tariff Filings |) | RM 8535 |
| |) | |
| BellSouth Telecommunications, Inc. |) | |
| Tariff F.C.C. No. 1 |) | Transmittal No. 502 |

PETITION TO SUSPEND FOR ONE DAY AND SET FOR INVESTIGATION

Pursuant to Section 1.773 of the Commission's rules, Time Warner Telecom Holdings Inc. d/b/a Time Warner Telecom ("TWTC"), by its attorneys, hereby files this petition to suspend and investigate the long-term telephone number portability ("LNP") tariff filed by BellSouth Telecommunications, Inc. ("BellSouth") (Transmittal No. 502).

TWTC has repeatedly requested in this proceeding that carriers clarify whether they intend to impose default query charges on calls to NXXs in which no telephone number has been ported ("non-porting NXXs").¹ This issue has also been the subject of Commission inquiry, both in its Cost Classification

¹ See, e.g., TWTC Opposition to Direct Cases, filed in Long-Term Telephone Number Portability Tariff Filings of Southwestern Bell Telephone Company (Trans. No. 2745) and Pacific Bell (Trans. No. 2029), CC Dkt. 99-35 (Apr. 19, 1999); Ex Parte Submission by Time Warner Communications Holdings Inc., CC Dkt. No. 98-14 (Mar. 18, 1998).

Order² and in connection with the current round of LNP tariff filings.³

In recent informal discussions with TWTC, BellSouth indicated its intention not to charge to conduct default queries for calls to non-ported NXXs. Notwithstanding these statements, and the industry's and the Commission's interest in the proper resolution of this issue, BellSouth's Transmittal fails to clarify its position for the record. Rather, the Transmittal states that "[t]he BellSouth LNP [default query] Call Routing Service rate will be applied to each call delivered to a Telephone Company end office or access tandem switch requiring a query, which is subsequently completed to the end user."⁴ This statement is ambiguous, since it is unclear whether BellSouth deems calls to non-ported NXXs as "requiring" BellSouth to perform a default query. BellSouth's Description and Justification provides no additional guidance.⁵

² Telephone Number Portability Cost Classification Proceeding, CC Dkt. No. 95-116, Memorandum Opinion and Order ¶ 48 (rel. Dec. 14, 1998) ("Cost Classification Order").

³ See, e.g., Long-Term Telephone Number Portability Tariff Filings, CC Dkt. No. 99-35, Order Designating Issues for Investigation ¶¶ 36-46 (rel. Feb. 26, 1999).

⁴ BellSouth Tariff F.C.C. No. 1, section 6.7.1(B)(3)(a) (emphasis added).

⁵ BellSouth states that it used actual numbers of "non-queried calls" from other carriers to project future query volumes. See BellSouth Description and Justification at 20-21. This description fails to specify whether "non-queried calls", for purposes of forecasting default query demand, includes calls to non-ported NXXs. As TWTC has explained, such calls need not be queried for proper completion and therefore default query charges should not be imposed for these calls.

As TWTC has explained at length in this proceeding, the Commission should declare unlawful any LNP tariff that imposes default query charges on calls to non-ported NXXs since such queries are unnecessary.⁶ In this regard, it is especially noteworthy that Ameritech Operating Companies ("Ameritech"), Bell Atlantic Telephone Companies and NYNEX Telephone Companies, which are in the same position as BellSouth in terms of LNP upgrade requirements, have decided not to impose default query charges on calls to non-ported NXXs.⁷ If BellSouth intends not to charge to conduct default queries for calls to non-ported NXXs, as it mentioned in informal discussions with TWTC, it should so indicate on the record by adopting suitable language such as that found in Ameritech's LNP tariff.⁸

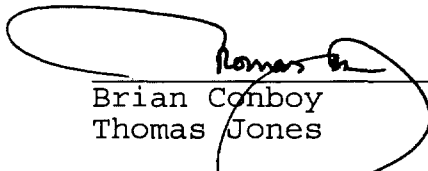
⁶ See, e.g., Ex Parte Letter from Thomas Jones to Magalie Roman Salas, CC Docket No. 95-116, RM 8535; CCB/CPD; CCB/CPD 98-25; CCB/CPD 98-17; CCB/CPD 98-23 (June 16, 1998).

⁷ See Ameritech Tariff F.C.C. No. 2, section 6.4.2(B)(1); NYNEX Telephone Cos. Tariff F.C.C. No. 1, Transmittal No. 543, Description and Justification, 19 n.11 (filed March 2, 1999); Bell Atlantic Telephone Cos. Tariff F.C.C. No. 1, Transmittal No. 1111, Description and Justification, 19 n. 11 (filed March 2, 1999).

⁸ Ameritech's LNP tariff states the following: "Terminating calls from N-1 Carriers upon which a query has not been performed to numbers in [Ameritech's] network with NXX codes from which a number is or has been ported that have been designated as number portable will require a query to the LNP database. Carriers who terminate calls into [Ameritech's] network without having performed the appropriate data base query will be assessed a Default LNP Query." See Ameritech Tariff F.C.C. No. 2, section 6.4.2(B)(1). This provision does not foreclose the possibility of Ameritech conducting queries on all calls, but it makes clear that Ameritech will not charge to conduct default queries for calls to non-ported NXXs.

The Commission should therefore investigate whether BellSouth intends to charge for default queries to NXXs in which no telephone number has been ported. If BellSouth does intend to adopt this approach, its tariff should be rejected as unlawful.

Respectfully submitted,



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May 7, 1999

CERTIFICATE OF SERVICE

I, Catherine M. DeAngelis, do hereby certify that on this 7th day of May, 1999, copies of Time Warner Telecom Holdings Inc.'s Petition to Suspend for One Day and Set For Investigation were served by first class mail, postage prepaid, facsimile or hand delivered as indicated, on the following parties:

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